

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.10.2006

CORAM:

THE HONOURABLE MR.JUSTICE P.SATHASIVAM
and
THE HONOURABLE MR.JUSTICE S. MANIKUMAR

W.P.No.17234 of 1996

Exnora International,
rep. By its General Secretary
42,Giriappa Road
T. Nagar, Madras 17.

.. Petitioner

vs.

- 1.The Government of Tamil Nadu
rep. By its Secretary to Government
Public Works Department
Fort St. George
Madras 9.
- 2.The Union of India
rep. By its Chief Project Manager
Metropolitan Transport Project (Railways)
Mass Rapid Transit System
EVR Salai, Madras 8.
- 3.The Madras Metropolitan Development
Authority rep. By its Member Secretary
No.8, Gandhi Erwin Road
Madras 600 008.
- 4.The Union of India rep. By its Secretary
to Government,Ministry of Environment
and Forests, Paryavaran Bhavan
(C.G.O. Complex) Lodi Road
New Delhi 110 003.

... Respondents

Petition filed under Article 226 of the Constitution of
India praying for issuance of a writ of mandamus as stated therein.

For petitioner : Mr. T. Mohan
For respondents : Mrs. D. Geetha
Addl. Govt., Pleader for R.1

Mrs. Shanmugavalli Sekar for R2
No appearance for R.3 and 4.

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ORDER

(Order of the Court was made by P. SATHASIVAM, J.)

Exnora International, Madras-17, filed this Public Interest Litigation in the year 1996, seeking to issue a Writ of Mandamus to direct the respondents to demolish the structures put up in the Buckingham Canal and to forbear them from in any manner implementing the Metropolitan Rapid Transit System (in short MRTS) project in an environmentally unsustainable manner.

2. According to the petitioner, this writ petition is filed in public interest to prevent the implementation of the MRTS project in the city of Madras in an environmentally unsustainable manner, which will have far-reaching adverse impact on the lives of millions of residents of this City. The petitioner is a registered Trust formed on the objective of improvement of civil amenities and the environment. One of the primary concerns of the petitioner Trust is public health and safety.

3. The city of Madras has four water ways running through it. They are Cooum, Adyar river, Otteri Nallah and Buckingham Canal. These water ways were initially the channels through which rain water was flowing/pushed to the sea. Over the years, they were turned into open sewerage drains with public institutions and pumping stations letting in raw untreated sewage into these water ways. The recent development which concerns the petitioner is the MRTS project, which is being implemented by the Metropolitan Transport Project (Railways).

4. The petitioner Trust understands that MRTS project is to build an overhead railway line between Beach and Luz and there is also a plan to extend the same to Taramani in future. The Buckingham canal is the main source of storm water disposal for Triplicane, Royapettah and Mylapore areas. In the past, Madras remained to be a city of lakes with many catchment areas serving to mitigate the impact of the monsoon. Over the years, the low lying areas, lakes, other water bodies and catchment areas have been encroached upon. In August, 1996, during torrential rainfall, there

was water flow into the houses in Mylapore and Triplicane areas and, on investigation, it was found that the flooding was due to the construction of railway stations/lines by the MRTS in the middle of the Buckingham canal bed and in some places in the middle of the canal itself. The Railways stations are built on hermetically sealed pile caps on concrete piles which are sunk on the bed of the canal. The width of the water way has now been reduced to 5-15 feet. The construction of the stations in the bed of the canal itself has had disastrous effect. It has blocked the free flow of water resulting in (a) blocking of the water way; and (b) over-flow in the nearby residential areas. As per the Development Control Rules for Madras City under Tamil Nadu Town and Country Planning Act, 1971, no site could be used for construction of building for any development if the site is near a water body or water course and the proposed development is likely to contaminate the said body or if the site is likely to be inundated. In such circumstances, it is not open to the third respondent herein, viz., Madras Metropolitan Development Authority, to grant permission for the construction in the bed of the canal. It is further contended that as per the Standing Order 15 of the Board of Revenue, it is the duty of the Government to take care and preserve the margins of canals and stream. The area upto 500 metres from estuaries, creeks, rivers and backwaters which are influenced by tidal action are subject to regulation. Because of the construction of MRTS stations, many of the slum dwellers were evicted without prior notice and proper rehabilitation.

5. The Deputy Secretary to Government, Public Works Department, Government of Tamil Nadu, first respondent herein filed a counter affidavit, wherein, it is stated that due to unprecedented rains in the month of June, 1996, the low-lying areas in Triplicane, Lloyds Road and Mylapore were inundated and the people in those areas suffered for days together. Taking note of the same, the Government of Tamil Nadu removed the sludge and silt in the Buckingham canal upto its original bed level for a total distance of 4.10 km. from Cooum river to Ramakrishna Mutt Road by spending huge amount. The Government of Tamil Nadu had spent Rs.132 lakhs for the removal of sludge and silt in the said Canal from Ramakrishna Mutt Road to Adyar river and also formed a High Level Committee with the Chief Minister as Chairman, the plan / objectives being to make and keep clean all the waterways in Chennai city by evicting the encroachments and improving the environmental conditions.

6. It is further stated by the first respondent that the MRTS project was formulated by the Central Government in consultation with the State Government on the condition that the land should be given to the MRTS by the State Government free of cost. Accordingly, the Government of Tamil Nadu agreed to spare the lands on the canal bank and other areas. The Chennai Metropolitan Development Authority approved the proposal with condition that the waterways should not be affected and a minimum width of 10 meter must be made available for the canal. MRTS agreed for the condition and took up the project. Consequent thereto, the huts along side

the canal banks and affected by the project were evicted and the dwellers were rehabilitated at Pallikaranai in the Slum Board Developed plots. The MRTS buildings were constructed on the bank of Buckingham canal maintaining the minimum required width of 10 mts. in all the four stations and there is no disturbance to anything or deviation from the conditions. While implementation of the project, every care is taken not to cause any inconvenience to the hutment dwellers and residents on the sides of the canal. In fact, the scheme would be most beneficial to all the residents upto Velachery and even upto St. Thomas Mount, Chennai.

7. The second respondent/Officer-in-charge of MRTS Project filed a counter affidavit, wherein, it is stated that the second respondent is the implementing agency for the MRTS in two phases. The first phase is from Beach to Tirumailai and the second phase is from Tirumailai to Velacheri. This project is the offshoot of the recommendations of the special study unit known as Madras Area Transport Unit (MATSU) and Metropolitan Transport Team (MTT) under the Town Planning Department of the Government of Tamil Nadu after a traffic study of Madras Metropolitan area. On completion of the survey, they suggested that the existing transport facility would have to be supplemented by high capacity, intra-urban rapid transport system, which needs to be partially surface, and partially elevated railway. Based on the same, Government of India, Ministry of Railways had set up an organisation known as "Metropolitan Transport Project (Railways) [MTP(R)]" and sanctioned the work of Techno-Economic feasibility studies for MRTS in Madras. The project was accordingly set up in July, 1971. This mega project is most welcomed by the people of Chennai, which would ease the ever-increasing traffic congestion in future, much to the relief of the people. The Buckingham canal was a man made navigating canal. While implementing the Scheme, the Government thought of ways and means to restore the character of the canal, which was being used as dumping-yard. The total estimated cost of the Two Phases at the time of filing this counter affidavit was Rs.983 crores and a sum of Rs.600 crores had already been invested. MRTS authorities created a minimum width of 10 Mts. and restored the bed to its original position at three MRTS Railway Station areas and now there is no obstruction for the smooth flow of water. The slum-dwellers at the construction site of the Station Buildings have been rehabilitated. RCC Retaining Walls at all station points have been constructed to maintain the canal width and to avoid further encroachment into the canal bank.

8. It is also stated by the second respondent that the Board Standing Orders do not apply, as it is a special scheme formulated by the State and the Central Governments in the interest of the public. The Coastal Zone Management plan has no application in this case. The slum dwellers evicted from the canal bank have been rehabilitated at Pallikaranai-Velacheri and Okkiyam Doraipakkam in the Slum Board developed plots. Even by 2002, 90% of the work was over and the scheme is being implemented in an environmentally sustainable manner. The canal has been cleared by removing the

silt. Now, there is free flow of water. The writ petition is liable to be dismissed on the ground of laches.

9. The petitioner filed an additional affidavit reiterating the stand taken earlier. The Officer-in-charge of the Project also filed an additional counter affidavit, dated 22.12.2002, wherein, it is stated that the 1991 Notification of Coastal Zone Management Plan has no application to the present project. Even otherwise, adequate care and caution is being taken in preservation of ecology and environment throughout the stretch of the project. The proposed construction is an easy public accessibility in the prevalent economic condition and scenario of population explosion and dearth of housing accommodation. The water flow is being regulated in the entire stretch by construction of retaining walls and side pavements as per the requirements.

10. In the light of the above pleadings by both parties, we heard Mr. T. Mohan, learned counsel for the petitioner, Mrs. D. Geetha, learned Additional Government Pleader for the first respondent and Mrs. Shanmugavalli Sekar, learned counsel for the second respondent.

11. At the foremost, Mr.T.Mohan, learned counsel for the petitioner submitted that the project in question, on completion, would seriously affect the water body resulting in blocking of the water-way and leading to over flow during monsoon. He also contended that Adyar-Pallikaranai Marsh is an extremely sensitive and critical wet land eco-system which will disappear on completion of the project and that it would also have an adverse effect on the birds coming from far away places as the area serves as an Estuary.

12. Before considering the contentions raised by the learned counsel for the petitioner, it is relevant to point out that though the petitioner had filed this writ petition way back in the year 1996, the fact remains that the petitioner was not successful in getting an order of stay of execution of the MRTS Project and by this time, a period of 10 years has elapsed. Now, it is the stand of the respondents, particularly, Ministry of Railways, that after almost completion of both Phase-I as well as Phase II of the project, trains are being operated up to Tiruvanmiyur and will be operated up to Velachery very soon. With this factual situation, let us consider the first contention raised by the learned counsel for the petitioner.

13. The Government of Tamil Nadu, considering the seriousness of water logging inundation problems and to have permanent solution for the same, sanctioned Rs.190 lakhs even on 21.08.1996 for the removal of sludge and silt in the Buckingham canal up to its original bed level for a total distance of 4.10 Km from Cooum river to Ramakrishna Mutt Road. It is brought to our notice that MRTS project authorities cleared the waterways at Chepauk station, Lloyds Road Station and Luz Station and they are also taking steps to clear the canal portion to the required profile of a minimum width of 10

Mts. and upto the original bed level of the canal, provided the hutments are removed. In the earlier part of our order, we have already referred to the decision taken by the Government of Tamil Nadu, forming High Level Committee with the Chief Minister as Chairman, and its plan to make and keep clean all the waterways in Chennai city by evicting the encroachments and improving the environmental conditions.

14. MRTS project is formulated by the Central Government in consultation with the State Government on the condition that the land for the MRTS project should be given by the State Government free of cost. Accordingly, the Government of Tamil Nadu agreed to spare the land on the canal bank and other areas. As the Scheme is a joint venture and beneficial to the State of Tamil Nadu, it is brought to our notice that after due approval by the Government of Tamil Nadu, Chennai Metropolitan Development Authority approved the proposal with a condition that the waterways should not be affected and a minimum width of 10 Mts. must be made available for the canal. It is relevant to point out that MRTS authorities had agreed for the conditions and only thereafter, the project was allowed to commence.

15. In respect of the apprehension raised by the petitioner relating to Pallikaranai Marsh, which is an extremely sensitive and critical wetland eco-system, the Deputy Chief Engineer (Southern Railway) in his counter affidavit explained that there is mushrooming of construction activities in the area with the World Bank aided 100 ft. ring road passing through. He further stated that the whole area is being utilised for commercial activities with several industries and manufacturing units coming into existence and that the Alandur Municipality is using a portion thereof for dumping waste and garbage and that the Institute of Ocean Studies and an Industry for non-conventional energy production are coming up in the same area. It is also stated that there are numerous domestic houses and tenements and the whole area was inundated during floods in November, 2002, against which, the people raised their voices for systematic drainage of rainwater, and hence, there is desire for retention of the said lands as marshy which is soon going to be converted as house and industrial sites. It is further explained that the birds can hardly nest in this highly disturbed area and there would be a least chance for conversion of the area into a birds sanctuary. In the light of the factual details, the contention raised by the learned counsel for the petitioner relating to Pallikaranai Marsh has to be rejected.

16. Section 11 of the Indian Railways Act, 1989, which enables the construction of Railway on any condition is brought to our notice and the said Section is as follows:

"Section 11. Power of railway administration to execute all necessary works - Notwithstanding anything contained in any other law for the time being in force, but subject to the

provisions of this Act and the provisions of any law for the acquisition of land for a public purpose or for companies, and subject also, in the case of a non-Government railway, to the provisions of any contract between the non-Government railway and the Central Government, a railway administration may, for the purposes for constructing or maintaining a railway -

(a) Make or construct in or upon, across, under or over any lands or any streets, hills, valleys, roads, railway, tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes, oil-pipes, sewers, electric supply lines, or telegraph lines, such temporary or permanent inclined-planes, arches, tunnels, culverts, embankments, aqueducts, bridge, roads, lines or rails, ways, passages, conduits, drains, piers, cuttings and fences, in-take wells, tube wells, dams, river training and protection works as it thinks proper.

(b) Alter the course of any rivers, brooks, streams or other water courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them and divert or alter either temporarily or permanently, the course of any rivers, brooks, streams or other water courses or any roads, streets or ways, or raise or sink the level thereof, in order to carry them more conveniently over or under or by the side of the railway. "

By pointing out the above provision, it is stated by the second respondent that 1991 Notification of Coastal Zone Management has no application as against the present project (MRTS). A specific statement was also made to the effect that adequate care and caution is being exercised in preservation of the ecology and environment throughout the stretch of the project. The above statement is hereby recorded. It is stated that the proposed construction is an easy public accessibility in the prevalent economic condition and scenario of population explosion and dearth of housing accommodation.

17. Regarding free flow of water in the canal, we have already referred to the stand taken by the respondents that in the canal, a width of 10 Mts. has been left out in all the four Stations and there is no disturbance to the free flow of water. The information furnished by the State Government as well as the Railways clearly shows that the flow of water in the canal is being regulated in its entire stretch by construction of Retaining Wall and side pavements as per the requirements. It is their claim that once the project is

completed and the landscaping is given the grandeur, the same will be well acknowledged by the public.

18. Regarding the contention relating to the Board Standing Orders, it is explained by the Railways that the Board Standing Orders do not apply, as it is a special scheme formulated by the State and the Central Government in joint venture in the interest of the public. It is also demonstrated that the Coastal Zone Management plan has no application for the Scheme.

19. Coming to the rehabilitation of the slum dwellers, who have been evicted or are likely to be evicted for the project, both the State Government and the Railways have informed this Court that the slum dwellers evicted from the canal bank have been rehabilitated at Pallikaranai and Velacheri and Okkiyam Doraipakkam areas in Slum Board developed plots. In such circumstances, we are of the view that there is no basis for the apprehension of the petitioner.

20. Regarding Environmental Clearance from the Central Government, learned Standing Counsel appearing for the Railways has placed before us a copy of the Gazette of India (Extraordinary), dated 27.1.1994, which shows that Railway Projects are deleted from the list of projects, requiring environmental clearance from the Central Government. Therefore it is clear that Railway Projects are exempted from obtaining environmental clearance.

21. Though we have regard and perceive the concern of the petitioner in preservation of ecology and environment and in using the water bodies and waterways in a City like Chennai, at the same time, the benefit stemming out of the MRTS project to the public at large cannot be ignored or underestimated. When a Public Interest Litigation was filed in connection with the Sethu Samudram Shipping Canal Project, after considering various objections raised relating to environmental aspects, the First Bench of this Court, in O.Fernandes, Co-Convener, Coastal Action Network v. Tamil Nadu Pollution Control Board & Others [2005-1-L.W.13], while highlighting the importance of maintaining the environment/ecological set up, also stressed the need of industrialization in order to meet the global changes. The following observations in paragraphs 17 and 18 are relevant:

"17. Before parting with the above cases, we would like to mention that we should not obstruct the scientific and technical progress of the country in the name of environment protection. No doubt, the environment has to be protected, but at the same time, we must never overlook the basic aim of our country which is to make India a powerful and modern industrial state. Today the real world is cruel and harsh. It respects power, not poverty or weakness. The truth is that Indians, despite being intelligent and industrious people, are not respected by Westerners, not because our skin is brown or black in colour, but because our country is poor. Nobody respects

the poor. When the Chinese and Japanese were poor people they were derisively called 'yellow' races by the Westerners, but today they are industrialized and powerful nations, and now nobody dares to call them that. Similarly, if we wish to get respect in the world community we must make our country highly industrialized and prosperous. Also, industrialization alone can generate the wealth we require for taking care of the welfare of our people, as is the mandate of the Directive Principles in our Constitution.

18. Nowadays, in seminars, newspaper articles, books, etc., the constant refrain is of protecting the environment, and hardly any thought is given about the need for rapid industrialization. Everyone seems to have forgotten the basic goal of our country, that is to make India a modern, powerful, highly industrialized and prosperous country. The implicit message which seems to be conveyed is that the environment must be protected, even if that has to be done by closing down our industries. The impression sought to be created is that there is an imbalance in our country between man and nature because there has been too much industrialization, though the truth is that there has been too little industrialization in India, and not too much. Nobody can dispute the need for protecting the environment. After all, people are entitled to pure air and water, forests have to be protected for ensuring regular rainfall and preventing soil erosion, wildlife has to be protected for maintaining ecological balance, etc. But, what is overlooked is that protection of the environment is incidental to industrialization. In other words, if we industrialize we will be compelled to protect the environment and there is no conflict between industrialization and environment protection. Thus, industrialization itself ensures a good environment. For instance, in Western countries, which are industrialized, the rivers are clean, the air has little pollution, etc. The factories and motor cars in North America and Europe have to be fitted with pollution avoidance devices to meet the high standards of pollution control fixed by the authorities. The forests and wildlife in these countries are carefully preserved by experts scientifically. People in Western countries are fined heavily if they throw litter and garbage on the road or public places, while in our country's cities one can see garbage and litter lying everywhere. Industrialisation not only creates the wealth necessary for preserving and protecting the environment, it also creates the modern mind in which protecting the environment is instilled since childhood. Parents in Western countries teach their children that they must not throw litter anywhere except in the public bins established for this purpose. When one takes a dog for a

walk in any Western city, and the dog excretes on the road or park, the owner must pick up the excreta (with a paper or whatever) and throw it in the bin set up for this purpose. Otherwise he is fined. Thus, the very mindset of Westerners is towards protection of the environment, and this is because they are highly industrialized. We are not trying to say that we should not care for the environment. We should certainly not let certain unscrupulous businessmen discharge toxic effluents into our rivers or hazardous fumes into the atmosphere. We should not let greedy forest contractors destroy our forests and ecology. We must certainly place restrictions and regulations for protecting the environment. But, at the same time a balance has to be struck. No doubt Article 48-A of the Constitution states that "the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country" and Article 51A(g) makes it a fundamental duty of all citizens to protect forests, lakes, rivers, wildlife, etc. However, these provisions have to be read along with the basic objective of the country, that is to make India a powerful, highly industrialized and Modern State. Our main aim must be to rapidly industrialize, and protection of environment must be regarded as only incidental to this main aim, and not itself the main aim. Unless we are industrialized we will never get respect in the comity of nations and will not be able to promote the welfare of our people (because we will not be able to generate the wealth for this purpose) as required by Article 38 of the Constitution. Without industrialization our people shall also not be able to get work, education, unemployment and sickness benefits and other public assistance as required by Article 41 of the Constitution, because all these require huge resources and funds which can only be generated by a high degree of industrialization. The massive unemployment in our country can also be eradicated by rapid industrialization."

22. It is also relevant to mention the latest judgment of the Hon'ble Supreme Court in *Susetha v. State of Tamil Nadu* [2006 AIR SCW 4026], wherein, while considering the importance and maintenance of water storage resources, Their Lordships held,

"Water bodies are required to be retained. Such requirement is envisaged not only in view of the fact that the right to water as also quality life are envisaged under Art.21 of the Constitution of India, but also in view of the fact that the same has been recognised in Arts.47 and 45-A of the Constitution of India. Art.51-A of the Constitution of India furthermore makes a fundamental duty of every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife. But this principle applies only to natural

water storage resources. The same principle cannot be applied in relation to artificial tanks."

Their Lordships have further held that where a temple tank, which had lost its utility long back and now used as dumping yard, if taken by Panchayat to construct shopping complex for the purpose of user thereof for resettlement of those persons, who were displaced due to expansion of a highway project, the decision cannot be found fault with. Considering the doctrine of sustainable development, Their Lordships have held,

"21. In *Bombay Dyeing & Mft. Co. Ltd. (3) v. Bombay Environmental Action Group and Others* [(2006) 3 SCC 434], referring to a large number of decisions, it was stated that whereas need to protect the environment is a priority, it is also necessary to promote development stating:

'...The harmonization of the two needs has led to the concept of sustainable development, so much so that it has become the most significant and focal point of environmental legislation and judicial decisions relating to the same. Sustainable development, simply put, is a process in which development can be sustained over generations. Brundtland Report defines 'sustainable development' as development that meets the needs of the present generations without compromising the ability of the future generations to meet their own needs. Making the concept of sustainable development operational for public policies raises important challenges that involve complex synergies and trade offs.'

22. Treating the principle of sustainable development as a fundamental concept of Indian law, it was opined:

'The development of the doctrine of sustainable development indeed is a welcome feature but while emphasizing the need of ecological impact, a delicate balance between it and the necessity for development must be struck. Whereas it is not possible to ignore intergenerational interest, it is also not possible to ignore the dire need which the society urgently requires'.

"

23. The case on hand must be judged keeping the aforementioned principles in mind. We have already referred to the categorical statement made by the Government of Tamil Nadu as well as the Railways that in the canal, at all places, a minimum width of 10 Mts. is being maintained. The Government of Tamil Nadu had already spent substantial amount for the removal of silt and sludge. It is also asserted by the respondents that there is free flow of water in the canal and RCC Retaining Walls at all station points have been constructed to maintain the canal width and to avoid further encroachment into the canal bank. We find no reason to

disbelieve the above statement made by the respondents. It is also not in dispute that the water flowing through Buckingham Canal is not fit for consumption. No doubt, learned counsel for the petitioner, by showing certain photographs taken during the construction work, vehemently argued that MRTS construction are being put up in the middle of Buckingham Canal. We have perused all the photographs, and as rightly pointed out by the learned counsel for the Railways, we find that the photographs were taken at the earlier/initial stage of construction work. Further, we are satisfied with the information and materials furnished by both the respondents which show that, at every place of the canal, particularly, at four railway stations, a minimum width of 10 mts. is being maintained. The respondents have also asserted that water flow is being regulated in the entire stretch of canal by construction of retaining wall and side pavements as per the requirements. Though the learned counsel for the petitioner relied on various decisions of the Apex Court relating to the protection of environment, particularly water bodies, in the light of the abundant factual details, we are of the view that there is no need to refer to those decisions.

24. Before winding up, it is useful to mention the present position of the project as submitted by the Assistant Executive Engineer, WRO, PWD, Adyar Basin Sub Division, Chepauk, Chennai, which runs thus:

"1. The MRTS Railway project has constructed eleven MRTS railway station in Buckingham canal from Chepauk to Thiruvannamiyur and it is learnt that all the works nearing completion and the railways train services have commenced. The Following MRTS Railway Stations are constructed in Buckingham canal.

- 1.Chepauk
- 2.Triplicane
- 3.Light House
- 4.Munda Kanniamman kovil (under construction)
- 5.Thirumailai
- 6.Mandaveli
- 7.Greenways Road
- 8.Kotturpuram
- 9.Kasturba Nagar
- 10.Indira Nagar
- 11.Thiruvannamiyur

2. The encroachment along the Buckingham canal has been evicted already for the purpose of construction of MRTS Railway station and they were rehabilitated in Kannagi Nagar, okkiyam, Thoraipakkam. Necessary action are being taken for the eviction of balance encroachment in Buckingham canal and rehabilitated in Semmanjeri TNSCB tenements.

3. The Buckingham canal width of 15.0 m except Railway station building has been maintained for free flow of water in the canal. In railway station limit 10.0 m

clear width has been maintained and RCC retaining wall has been constructed on either side of canal for free flow of water. Periodically blockages and debris put into the canal are being cleared by Public Works Department. The MRTS Railway provide sufficient width and depth in the Buckingham canal. The scheme seems more beneficial to all the public residing in the Chennai city."

25. While appreciating the steps taken by the Railways as well as the State Government, this Court hope and trust that, keeping in view the past experiences, both the respondents will see that there shall not be water stagnation in Buckingham canal at any place and that they shall also scrupulously maintain the canal so that there will be free flow of water and that they will remove the sludge and silt periodically without fail, not leaving room for any complaint of inundation during monsoon.

Under these circumstances and in the light of our discussion, we do not find any merit in the claim/apprehension of the petitioner in the implementation of MRTS project. Consequently, the writ petition fails and the same is dismissed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

Kh

To

- 1.The Secretary to Government
Government of Tamil Nadu
Public Works Department
Fort St. George
Madras 9.
- 2.The Chief Project Manager
Union of India
Metropolitan Transport Project (Railways)
Mass Rapid Transit System
EVR Salai, Madras 8.

3.The Member Secretary
Madras Metropolitan Development
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4.The Secretary to Government,
Ministry of Environment
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New Delhi 110 003.

1 cc to Mr.T. Mohan, Advocate, sr. 47887

1 cc to Mr.M. Sekar & Mrs. Shanmugagalli, Advocate, Sr.47734

1 cc to Government Pleader, sr. 47814

WP.No.17234 of 1996

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